

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**


DARYL DEAN WHITEBIRD,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-184-SLP
)	
TODD GIBSON, et al.,)	
)	
Defendants.)	

ORDER

Before the Court is the Report and Recommendation [Doc. No. 39] of United States Magistrate Judge Gary M. Purcell, entered October 9, 2019. Judge Purcell recommended that Defendant Harris' Motion to Dismiss [Doc. No. 26], be granted in part and denied in part. The parties were advised of their right to file an objection to the Report and Recommendation on or before October 29, 2019. As of this date, no objection has been filed nor has an extension of time within which to object been sought or granted.

Therefore, the Report of the Magistrate Judge is adopted in its entirety. The Motion to Dismiss of Defendant Harris is granted in part and denied in part. Specifically, Defendant Harris' request for dismissal of Plaintiff's First Amendment claim against him in his individual capacity is denied. Defendant Harris' request for dismissal of Plaintiff's First Amendment claim against him in his official capacity is granted.

IT IS SO ORDERED this 4th day of November, 2019.



SCOTT L. PALK
UNITED STATES DISTRICT JUDGE